

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1090

United States of America,

Appellee,

v.

Rogelio Vera-Navarro,

Appellant.

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Appeal from the United States
District Court for the Southern
District of Iowa.

[UNPUBLISHED]

Submitted: June 5, 2003

Filed: June 12, 2003

Before LOKEN, Chief Judge, MORRIS SHEPPARD ARNOLD, and SMITH, Circuit
Judges.

PER CURIAM.

Rogelio Vera-Navarro pleaded guilty to illegal reentry following deportation, in violation of 8 U.S.C. § 1326(a). The district court¹ sentenced him to 70 months imprisonment and 2 years supervised release. On appeal, Mr. Vera-Navarro's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court should have granted a downward departure

¹The Honorable Ronald E. Longstaff, Chief Judge, United States District Court for the Southern District of Iowa.

under U.S.S.G. § 5K2.11, p.s. (lesser harms) and § 5K2.12, p.s. (coercion and duress). Mr. Vera-Navarro asserts, pro se, that he was never comfortable with his attorney and felt as if he was “railroaded from the start,” and urges us to reduce his sentence.

Given the district court’s explicit recognition of its authority to depart, its decision not to depart is unreviewable. See United States v. Orozco-Rodriguez, 220 F.3d 940, 942 (8th Cir. 2000). Further, any ineffective-assistance argument that Mr. Vera-Navarro may be trying to raise is not properly before us. See United States v. Martin, 59 F.3d 767, 771 (8th Cir. 1995).

Following careful review of the record, see Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no other nonfrivolous issues. Accordingly, the judgment is affirmed. We also grant counsel’s motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.